

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

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4 MARK PICOZZI,

Case No. 2:22-cv-01011-ART-EJY

5 Plaintiff,

ORDER

6 v.

7 STATE OF NEVADA, *et al.*

8 Defendants.
9

10 Pending before the Court is Plaintiff's Motion asking the Court to order a Rule 35
11 Independent Medical Examination of Plaintiff. ECF No. 79. No response to the Motion was filed.
12 While the Court may treat the failure to oppose a motion as consent by the non-moving party to grant
13 the motion, here the Court finds the Motion must be denied. Plaintiff is proceeding *in forma pauperis*
14 under 28 U.S.C. § 1915. Section 1915 does not authorize or require federal courts to finance or
15 subsidize a civil action by paying expert fees or other costs. *Hadsell v. Internal Revenue Service*,
16 107 F.3d 750, 752 (9th Cir. 1997); *Dixon v. Ylst*, 990 F.2d 478, 480 (9th Cir. 1993).

17 The above said, it appears Plaintiff was scheduled for hemorrhoid surgery in October 2022;
18 however, Plaintiff's grievance dated October 4, 2022 says the surgery was not performed due to an
19 irregular heartbeat. ECF No. 79 at 8. On January 3, 2023, Plaintiff submitted a medical request
20 regarding hemorrhoid treatment at the bottom of which High Desert State Prison responded that
21 Plaintiff had a hemorrhoidectomy on October 4, 2022. *Id.* at 15. Plaintiff says this is inaccurate—
22 said more simply—a lie. Plaintiff also claims he suffers from severe hemorrhoids requiring
23 medication and treatment he is being denied. In the absence of a response from Defendants, the
24 Court cannot fairly judge whether Plaintiff's allegations have any validity.

25 Based on the foregoing, IT IS HEREBY ORDERED that Plaintiff's Motion seeking an
26 Independent Medical Examination (ECF No. 79) is DENIED.
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1 IT IS FURTHER ORDERED that Defendants **must** no later than **April 10, 2023**, file a status
2 report, with exhibits, demonstrating what care Plaintiff has received regarding his hemorrhoids,
3 including whether Plaintiff received surgery and what care since that date has been provided. The
4 exhibits, if any, are to be **filed under seal**. No motion to seal is necessary. Defendants must serve
5 the status report with exhibits on Plaintiff.

6 IT IS FURTHER ORDERED that Plaintiff **must** be allowed to keep a copy of the medical
7 records, if any, attached to the status report in his cell. To ensure this Order is followed, the Clerk
8 of Court is to mail a copy of this Order to the Warden of High Desert State Prison, 22010 Cold Creek
9 Road, Indian Springs, Nevada 89018.

10 DATED this 28th day of March, 2023.

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12 ELAYNA J. YOUCHAK
13 UNITED STATES MAGISTRATE JUDGE
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